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Human resources management

Amendments to the Staff Regulations and Rules

Report of the Secretary-General

Summary

Consistent with staff regulations 12.1 and 12.3, the present report contains the full text of amendments to existing rules that the Secretary-General proposes to implement as at 1 January 2016. The report also provides the rationale for those amendments.

The General Assembly is requested to take note of the amendments to the Staff Rules set out in the annexes to the present report.

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1. Staff regulation 12.3 provides that the full text of provisional staff rules and amendments shall be reported annually to the General Assembly.

2. Pursuant to staff regulation 12.4, the proposed amendments contained in the annexes to the present report will take effect on 1 January 2016, subject to any modifications or deletions that may be directed by the General Assembly.

Rules

3. In rule 4.15, on Senior Review Group and central review bodies, the title of the rule and subparagraphs (a) and (b) have been amended and subparagraphs (d) and (h) have been deleted, for the purpose of implementing the new managed mobility framework approved by the General Assembly in its resolution 68/265 and simplifying the rule, given that the details of the composition, roles and functions of those existing bodies are contained in the Secretary-General's bulletins on the central review bodies (ST/SGB/2011/7) and on the Senior Review Group (ST/SGB/2011/8). The membership, roles and functions of the future Senior Review Board and Global Central Review Board will be set out in new Secretary-General's bulletins. The wording of the amendment to staff rule 4.15 allows for the existing and new review bodies to operate simultaneously, bearing in mind that the managed mobility framework will be introduced in phases until all job networks are transitioned into the managed mobility framework.

4. An amendment is proposed to staff rule 5.3 (d) relating to special leave for pension purposes to reflect the changes made to article 29 of the Regulations of the United Nations Joint Staff Pension Fund, which introduced an early retirement age of 58 for staff members who entered the Fund on or after 1 January 2014. The proposed change provides for the scenarios in which a staff member is within two years of qualifying for an early retirement benefit at the age of 55 if he or she entered the Fund prior to 1 January 2014 and at the age of 58 if he or she entered the Fund on or after 1 January 2014.

5. In the report of the Secretary-General on special measures for protection from sexual exploitation and sexual abuse (A/69/779), the Secretary-General indicated his intention to amend the Staff Rules to specify that accrued annual leave, which would normally be payable at the time of separation, would not be paid to a staff member who is dismissed for sexual exploitation and abuse. A new subparagraph (b) to staff rule 9.9 on the commutation of accrued annual leave is proposed to introduce that measure.

Appendix D

6. Appendix D to the Staff Rules, entitled "Rules governing compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of the United Nations" (ST/SGB/2014/1, appendix D) has been revised and updated to reflect the applicable legal review mechanisms under the Staff Regulations and Rules, to provide required definitions and procedural clarifications based on established practice and in the light of United Nations tribunal jurisprudence, and to align the rules with best practice standards. The current revision is the first since 8 January 1976. Given the objective of creating a long-term tool for assessment of compensation claims, the revision is comprehensive, and

therefore no version with tracked changes is available for comparison. Further background and specific changes, however, are detailed below for reference.

7. Appendix D to the Staff Rules sets out the Organization's mechanism for compensation in cases of service-incurred injury, illness or death of staff members but is outdated and lacks clarity. Whereas there is established practice that guides current implementation, in cases in which the rules are not clear or in cases of legal lacunae, a comprehensive revision was required to provide a legally sound, practical tool for the determination of compensation claims by staff members. The proposed revision is based on experiences to date, feedback received from wide consultations with all stakeholders, including staff representatives, and best practices of comparator international organizations.

8. Other than an overall editorial alignment with required standards for legal review of decisions on claims, the major changes are as follows:

(a) A definition section and detailed provisions on coverage have been added, including clarifications on exclusion of coverage such as medical conditions unrelated to the service-incurred injury or illness, to avoid differences in interpretation of terminology or compensable incidents;

(b) The requirement that the claimant must provide evidence necessary to fully support a claim for compensation has been clarified;

(c) The statute of limitations for claims has been extended from four months to one year. In practice, the previous time period had proved too short for claimants, for example, for seriously injured staff members or surviving beneficiaries who in times of recovery or loss could not reasonably be expected to prioritize filing claims within that time period;

(d) A provision on consequences in case of misrepresentation or omission of facts in a claim has been added;

(e) Previous compensation amounts applicable in absolute numbers since 1976 have been replaced by references to percentage points of the pensionable remuneration scales to provide for adjustment in compensation amounts over time without a need to periodically amend the Staff Rules;

(f) The formula to determine compensation for permanent loss of function has been simplified and linked to the affected staff member's pensionable remuneration scale;

(g) The survivor benefit has been increased from 40 per cent of the pensionable remuneration to 50 per cent, in accordance with the best practices of comparator international organizations;

(h) The provision on sick leave credit has been revised to clarify applicability and approval procedures. The current basis requiring the presence of a particular hardship required clarity, given that it has led to differences in interpretation in practice;

(i) The claim review and legal recourse mechanisms have been updated and aligned with the current mechanisms under the Staff Regulations and Rules including clarifications on applicable recourses for review of procedure, compensation and medical determinations.

9. Some of the changes in calculation bases will result in increases in overall compensation for future cases of service-incurred injury, illness or death, in particular for survivors of staff who died in service, as addressed in paragraph 8 (g) above. It is expected, however, that the overall cost impact of the changes on the 2016-2017 budget requirements will be minimal.

10. **The General Assembly is requested to take note of the amendments to the Staff Rules set out in the annexes to the present report.**

Annex I

Text of amendments to the Staff Rules

Rule 4.15
Senior review bodies ~~Group~~ and central review bodies

Senior review bodies ~~Group~~

(a) ~~A~~ Senior review **bodies** ~~Group~~ shall be established by the Secretary-General to review and provide advice on recommendations for the selection **and managed mobility** of **senior** staff ~~at the D-2 level~~. The Secretary-General shall decide on the membership and shall publish the rules of procedure of the senior review **bodies** ~~Group~~.

Central review bodies

(b) Central review bodies shall be established by the Secretary-General to review and provide advice on recommendations for selection **of staff regarding positions of a duration of one year or longer in the Professional category, the Field Service category and the General Service and related categories, except for advice on the appointment of candidates having successfully passed a competitive examination, which shall be given by boards of examiners, in accordance with staff rule 4.16.** ~~as follows:~~

~~(i) Central review boards for the selection of staff at the P-5 and D-1 levels;~~

~~(ii) Central review committees for the selection of staff in the Professional category up to the P-4 level, except for advice on the appointment of candidates having successfully passed a competitive examination, which shall be given by boards of examiners, in accordance with staff rule 4.16;~~

~~(iii) Central review panels for the selection of staff in the General Service and related categories.~~

(c) Each central review body shall be composed of staff members holding a fixed-term or continuing appointment, whose rank is not below that of the level of the post to which appointment, selection or promotion is contemplated, as follows:

(i) Members selected by the Secretary-General;

(ii) Members selected by the appropriate staff representative body;

(iii) The Assistant Secretary-General for Human Resources Management, or an authorized representative, as an ex officio non-voting member.

~~(d) Members shall be appointed for a period of two years and shall serve for a maximum of four continuous years.~~

(**de**) Each central review body shall elect its own chair.

(**ef**) The rules of procedure of the central review bodies shall be established and published by the Secretary-General.

(**fg**) Executive heads of separately administered programmes, funds and subsidiary organs of the United Nations to whom the Secretary-General has delegated the authority to appoint, select and promote staff may establish advisory bodies to advise them in the case of staff members recruited specifically for service

with those programmes, funds or subsidiary organs. The composition and functions of such advisory bodies shall be generally similar to those of the central review bodies established by the Secretary-General.

~~**Functions of the central review bodies**~~

~~(h) The central review bodies shall advise the Secretary-General on all appointments of one year or longer, except in the following cases:~~

~~(i) Appointment of candidates having successfully passed a competitive examination, in accordance with staff rule 4.16;~~

~~(ii) Appointment at the entry level or promotion within the General Service and related categories of candidates having successfully passed an entrance test or examination, under conditions defined by the Secretary-General.~~

~~(iii) The central review bodies shall review the process for compliance with the pre-approved evaluation criteria and shall provide advice on the recommendations for the selection of candidates. Where such advice is not in line with that of the relevant manager, the Secretary-General shall give due consideration to the advice of the central review bodies and shall make the decision.~~

Rule 5.3
Special leave

(d) The Secretary-General may authorize special leave without pay for pension purposes to protect the pension benefits of staff who are within 2 years of **reaching the applicable qualifying age for an early retirement benefit under article 29 of the Regulations of the United Nations Joint Staff Pension Fund** ~~achieving age 55 years~~ and 25 years of contributory service, or who are over that age and within 2 years of 25 years of contributory service.

Rule 9.9
Commutation of accrued annual leave

(a) If, upon separation from service a staff member has accrued annual leave, he or she shall be paid a sum of money in commutation of the period of such accrued leave up to a maximum of 18 working days for staff holding a temporary appointment and up to a maximum of 60 working days for staff holding a fixed-term or continuing appointment, in accordance with staff rules 4.17 (c), 4.18 and 5.1. The payment shall be calculated:

(i) For staff in the Professional and higher categories, on the basis of the staff member's net base salary plus post adjustment;

(ii) For staff in the Field Service category, on the basis of the staff member's net base salary plus post adjustment;

(iii) For staff in the General Service and related categories, on the basis of the staff member's gross salary, including language allowance, if any, less staff assessment according to the schedule of rates set forth in staff regulation 3.3 (b) (ii) applied to the gross salary alone.

(b) No payment in commutation of the period of accrued annual leave shall be made to a staff member who is dismissed under staff rule 10.2 (a) (ix) for sexual exploitation or sexual abuse in violation of staff rule 1.2 (e).

Annex II

Text of the amended appendix D to the Staff Rules
Rules governing compensation in the event of death, injury or illness attributable to the performance of official duties on behalf of the United Nations

Section I.
Scope and general provisions

Article 1.1
Purpose and scope

The present rules provide for compensation for death, injury or illness attributable to the performance of official duties on behalf of the United Nations, as set out below. Compensation shall be provided solely to staff members and their dependants, in accordance with the terms and conditions contained in the present rules.

Article 1.2
Exclusiveness of remedy; non-assignment

Compensation or other forms of recourse provided under the present rules constitutes the sole remedy for service-incurred death, injury or illness. The United Nations will not accept, consider or provide compensation or benefits for service-incurred death, injury or illness except under the present rules. Except as set forth below, compensation and rights shall not be assignable to third parties.

Article 1.3
Terminology

The following terminology applies for the purposes of the present rules:

(a) Claimant: the staff member or dependant, as defined below, bringing a claim under these rules.

(b) Dependant: the spouse, dependent child, or secondary dependant as set forth in the Staff Rules. Compensation payable on the basis of or benefit payable to a dependent child or secondary dependent sibling ceases at the day the dependent child or secondary dependent sibling reaches the age of 18, or 21 if he or she is attending university or its equivalent full-time. This restriction does not apply where and as long as the dependent child or secondary dependent sibling has a disability that is permanent or for a period that is expected to be long-term that prevents gainful employment.

(c) Minor: an individual under the age of 18, or the age of majority under the laws of the country of residence of such individual, if the age of majority in the individual's country of residency is less than 18 years of age.

(d) Illness: a deterioration in health as confirmed by a physician authorized to practise medicine by a competent authority.

(e) Injury: a physiological impairment as confirmed by a physician authorized to practise medicine by a competent authority.

(f) Incident: an event causing the death, injury or illness underlying a claim.

(g) Commute or commuting: travel by reasonable means of transportation and on a direct route, by time or distance, between place of work and residence. A direct route is deemed to commence upon departure from, or be terminated on arrival at, United Nations premises or the property line at the designated place of work or the property line of the staff member's place of residence, such residence including yards, lawns, driveways, garages, stairways, entrances, elevators, basements, hallways or common areas, without deliberate deviation from such route.

(h) Reasonable means of transportation: a generally accepted means of transportation under the circumstances. Transportation by a particularly hazardous means is not considered a reasonable means of transportation for the purposes of the present rules.

(i) Service-incurred death, injury or illness: a death, injury or illness where the death, injury or illness is directly attributable to the performance of official duties on behalf of the United Nations under the terms and conditions set out in the present rules.

(j) Pensionable remuneration: the definition of pensionable remuneration is set out in article 51 of the Regulations of the United Nations Joint Staff Pension Fund. If the staff member was not a participant in the Fund at the date of his or her death, injury or illness, remuneration shall be that which, had the staff member been a participant, would have been considered his or her pensionable remuneration at that date.

(k) Last pensionable remuneration: the pensionable remuneration at the time of (i) the incident, in the case of permanent disfigurement or permanent loss of function; (ii) the separation from service, in the case of total disability; or (iii) the date of death, in the case of death. If the staff member was not a participant in the United Nations Joint Staff Pension Fund at the date of the staff member's death, injury or illness, the remuneration shall be that which, had the staff member been a participant, would have been considered his or her pensionable remuneration at that date.

(l) United Nations Joint Staff Pension Fund benefits: the definition of Fund benefits is set out in article 3.7 below, on the relation to benefits under the United Nations Joint Staff Pension Fund.

(m) Lump sum: a one-time payment of compensation.

(n) Pre-existing medical condition: an illness, injury or impairment that exists prior to the incident resulting in the service-incurred death, injury or illness.

(o) Total disability: incapacity for further work reasonably compatible with the claimant's abilities, in which such incapacity is due to a service-incurred injury or illness that is likely to be long-term or permanent. The resulting incapacity must have a significant adverse impact on the claimant's actual earnings, as determined by the Secretary-General under the Staff Rules. A determination of total disability under the Staff Rules shall be independent of a finding of disability under the Regulations of the United Nations Joint Staff Pension Fund.

Article 1.4
Advisory Board on Compensation Claims

(a) The Secretary-General has established the Advisory Board on Compensation Claims to consider claims for compensation arising from a service-incurred death, injury or illness and to make recommendations thereon to the Secretary-General.

(b) The Board may adopt procedures as it considers necessary for discharging its functions under the present article, provided that, in cases of conflict, the present rules prevail.

(c) Composition of the Board:

(i) Voting members:

a. Three representatives of the Administration appointed by the Secretary-General;

b. Three representatives of the staff appointed by the Secretary-General on the recommendation of the staff representative bodies;

(ii) Ex officio members:

a. Representatives from the Office of Legal Affairs and the Medical Services Division of the Secretariat may be appointed by the Secretary-General to serve as ex officio representatives. Representatives from the United Nations Joint Staff Pension Fund may be appointed by the Chief Executive Officer of the Fund to serve as ex officio representatives;

b. Such ex officio representatives shall serve in an advisory capacity to the Board to provide guidance to the Board with respect to the interpretation of the rules and issues relevant to their offices.

Article 1.5
Secretary of the Advisory Board on Compensation Claims

(a) The Secretary of the Advisory Board on Compensation Claims shall be designated by the Secretary-General or other authorized official. The Secretary may not, at the same time, be a member of the Board.

(b) The Secretary of the Board is responsible for preparing claims submitted under the present rules for consideration by the Board or the official with delegated authority to consider *de minimis* claims, as set forth in article 1.6 below. In discharging his or her functions and responsibilities under these rules, the Secretary will seek to obtain sufficient and relevant documentary evidence from appropriate sources.

Article 1.6
***De minimis* claims**

If it is determined that: (a) The potential cumulative cost to the United Nations of a claim is less than an amount determined by the Secretary-General or officials with delegated authority; and (b) the claim is solely for reimbursement of medical expenses, funeral expenses, compensation for permanent disfigurement or loss of function, or granting of sick leave credit, the official with delegated authority to

consider such *de minimis* claims may make determinations on the compensability of a claim, without the consideration of the Advisory Board on Compensation Claims. If the official with delegated authority to consider *de minimis* claims makes a determination on a claim, and the claim later exceeds the amount for *de minimis* claims, the claim shall be presented to the Board for new consideration.

Article 1.7
Role of the Medical Services Division

(a) The Medical Services Division shall make a medical determination for consideration by the Advisory Board on Compensation Claims or the official with delegated authority to consider *de minimis* claims. Such a determination may include:

(i) Whether a death, injury or illness is directly causatively related to an incident;

(ii) Whether a death, injury or illness is directly causatively related to the performance of official duties;

(iii) Whether treatment or services are directly related to a service-incurred injury or illness;

(iv) Whether treatment or services are reasonably necessary for the treatment of such an injury or illness;

(v) Whether medical expenses are at a reasonable cost for the treatment or services provided;

(vi) Whether absence from work is directly related to a service-incurred injury or illness;

(vii) Whether a claimant has reached maximum medical improvement, in order to assess a permanent loss of function;

(viii) Permanent disfigurement or loss of function;

(ix) Total disability.

(b) In accordance with staff rule 6.2 (g), a staff member may be required to undergo a medical examination by a medical practitioner designated by the United Nations Medical Director, with the cost to be borne by the Organization, in order to clarify findings or to further assess the claim in connection with any of the determinations made pursuant to the present article. A staff member may also be required to provide further information in connection with any of the determinations made pursuant to the present article.

Article 1.8
General obligations of claimant

(a) The claimant must provide the evidence necessary to fully support a claim for compensation in accordance with these rules.

(b) The claimant must fully and promptly comply with any request by the United Nations in connection with a claim, or the recovery of payments from third parties pursuant to section IV of the present rules.

(c) In accordance with article 3.8 below, the claimant must inform the Advisory Board on Compensation Claims of any compensation under governmental, institutional, industrial or other workers' compensation schemes or insurance for which the claimant may be eligible in connection with the death, injury or illness underlying a claim.

(d) The claimant must inform the Secretary of the Board of any changes relevant to a claim, including any changes in medical condition.

(e) The claimant shall provide, as requested, periodic attestation of continued eligibility to receive periodic compensation under the present rules.

Article 1.9
Fraud, misrepresentation and omission of material fact

(a) If a claimant makes a submission or a claim that is fraudulent, contains a material misrepresentation or omits a material fact, all claims related to the incident by that claimant shall be denied, all compensation or benefits payable to the claimant in relation to the claim shall be terminated and all payments made in relation to the claim shall be subject to recovery.

(b) When made by staff members, such claims may constitute misconduct under chapter X of the Staff Rules, and may result in disciplinary measures.

Section II.
Requirements and conditions for coverage

Article 2.1
Procedural requirement for the filing of a claim

Notice

(a) As soon as practicable after the incident, a claimant should submit to the relevant human resources or executive or administrative officer in writing the following information:

(i) The staff member's and claimant's name, address and staff identification number;

(ii) The date of death or of the onset or diagnosis of an injury or illness;

(iii) A description of the incident, including its date, time and location.

Claim

(b) Within one year of the relevant date, as established below in article 2.1 (c), a claimant shall submit a signed Advisory Board on Compensation Claims claim form, together with the following information, as applicable:

(i) For claims involving injury or illness: a. a description of the injury or illness; b. a description of the relation of the injury or illness to the incident; c. a diagnosis; and d. a prognosis. Such information must be provided in writing by the staff member's physician. The claimant must also submit the results of all relevant medical tests;

(ii) For claims for reimbursement of medical expenses: a. a completed Advisory Board on Compensation Claims medical expense form; b. all related medical bills; and c. proof of payment of such bills.

All required forms and supporting documentation may be submitted through a national mail service provider, other international courier service or electronically by e-mail or by other designated tool and are deemed received only upon actual receipt.

Effective dates

(c) The time limitations for submission of the above required forms and supporting documentation will be determined on the basis of the following:

(i) Injury or illness: the date of the incident shall be either the event or the period over which an exposure occurred. It shall be the date of the incident for cases where symptoms are apparent immediately or the date on which the staff member becomes aware, or reasonably should have been aware, of such injury or illness, whichever is earlier.

(ii) Death: the date of death shall be established by a duly issued certificate of death.

(d) A determination on whether the claimant has complied with the time limitations for the filing of a claim, or other such procedural requirements, shall be made by the Board or the official with delegated authority to consider *de minimis* claims.

(e) The deadline for the filing of a claim, including all necessary supporting documentation, may be waived on an exceptional basis by the Board or the official with delegated authority to consider *de minimis* claims, in consultation with the Medical Services Division, in cases in which the claimant demonstrates that the delay was the result of incapacity. If a waiver is made, the claim must be submitted within the deadlines set out in article 2.1 (b) above, as applicable, the time frame for which will begin from the date of the cessation of the incapacity.

Article 2.2
Eligibility for coverage

(a) To be eligible to receive compensation under the present rules, the death, injury or illness underlying a claim must be service-incurred, as assessed in accordance with article 2.2 (d) below.

(b) The Advisory Board on Compensation Claims will assess whether the death, injury or illness is service-incurred and provide its recommendation on a claim to the Secretary-General. For *de minimis* claims, the official with delegated authority to consider *de minimis* claims will assess whether the death, injury or illness is service-incurred and take a decision on the claim on behalf of the Secretary-General.

(c) Such an assessment will be based on the claimant's submissions, and, as appropriate, the recommendations of the Medical Services Division, technical advice from ex officio members of the Board and any other relevant documentary or other evidence.

Service-incurred death, injury or illness

(d) A death, injury or illness is service-incurred if it is directly attributable to the performance of official duties on behalf of the United Nations, in that it occurred while engaged in activities and at a place required for the performance of official duties.

(i) Incidents on the United Nations premises: if an incident occurs on United Nations premises, the resulting injury, illness or death, may be service-incurred, unless at the time of the incident the staff member is engaged in an activity outside the scope of the staff member's official duties.

(ii) Incidents off the United Nations premises: if an incident occurs away from the United Nations premises, the resulting injury, illness or death may be service-incurred if such death, injury or illness would not have occurred but for the performance of official duties, and if the incident occurred in any of the following circumstances:

a. during duly authorized official travel, subject to article 2.3 (a) (iii) below;

b. in the course of the staff member's commute, as defined in article 1.3 above;

c. while the staff member is otherwise in transit by direct route or at a location required for the performance of official duties.

(iii) An incident that occurs during the following types of official travel may be service-incurred only in cases in which the incident occurs during travel between the departure location and the destination location, as set out in the applicable travel authorization and itinerary: a. home leave travel; b. rest and recuperation travel; c. family visit travel; d. education grant travel in lieu of the child's travel; e. medical evacuation travel not related to a prior service-incurred injury or illness; or e. medical evacuation upon request by the staff member to his or her home country.

(iv) Special hazards: a death, injury or illness may be service-incurred if a staff member is on official travel or assigned to an area involving special hazards, as documented and addressed by authorized United Nations security and safety officials, and the underlying incident occurred as a direct result of such hazards.

Aggravation of a pre-existing medical condition

(e) Claims based, in whole or in part, upon any aggravation of a pre-existing medical condition shall not be compensated unless such aggravation is service-incurred, and such compensation shall be solely for the proportion of the injury or illness deemed service-incurred.

Article 2.3
Excluded claims

(a) Claims shall not be compensable under the present rules if compensation is expressly excluded under conditions established by the Secretary-General, or

where the death, injury or illness is the direct result of any of, but not limited to, the following:

(i) Misconduct, recklessness or gross negligence by the staff member, including, but not limited to, an act or omission with the intent to cause harm or death to himself or herself or others;

(ii) Disregard by the staff member of security instructions provided or made reasonably accessible to the staff member;

(iii) Failure by the staff member to use appropriate safety devices or medical prophylaxis provided by the United Nations, unless and only to the extent that the death, injury or illness would have happened even with the use of such device or prophylaxis;

(iv) Physical confrontation or other violence by the staff member, unless reasonably required by the circumstances or as part of the staff member's official duties;

(v) Medical condition or other factors unrelated to the performance of official duties of the staff member, including, without limitation, pre-existing medical conditions, as defined in article 1.3;

(vi) Incident having occurred while the staff member was working remotely from home or another authorized location outside the United Nations premises, known as "telecommuting" or "teleworking".

Wear and tear to medical devices

(b) Ordinary wear and tear to medical devices, such as prosthetics and hearing aids, are not compensable, unless such device was granted in connection with a previously approved claim.

Section III.
Compensation

In the event of a service-incurred death, injury or illness, the claimant will be awarded compensation as provided below, without payment of interest thereon. All such compensation, including adjustments thereto, shall be payable solely in United States dollars.

Article 3.1
Injury or illness

In the event of a service-incurred injury or illness, the following provisions shall apply:

Expenses

(a) The United Nations shall pay all medical expenses which are found by the Medical Services Division to be: (i) directly related to a service-incurred injury or illness; (ii) reasonably medically necessary for the treatment or services provided; and (iii) at a reasonable cost for the treatment or services provided.

Sick leave

(b) Initial authorized absences in connection with a service-incurred injury or illness shall be charged to the staff member's sick leave entitlement under staff rule 6.2 until such entitlement is exhausted or the staff member returns to active duty. Subject to meeting all requirements, article 3.9 may apply.

Article 3.2
Total disability

In the event of total disability, upon the exhaustion of the sick leave entitlements pursuant to article 3.1 (b) above and upon the cessation of salary and allowances payable under the applicable Staff Regulations and Rules, the staff member shall receive annual compensation equivalent to 66.66 per cent of his or her last pensionable remuneration or, if the staff member has a dependent child, 75 per cent of the last pensionable remuneration. Such compensation shall be payable at periodic intervals for the duration of the disability and in addition to compensation payable under article 3.1 (a), as applicable.

Article 3.3
Death

In the event of the service-incurred death of a staff member, the following provisions shall apply:

Funeral costs

(a) The United Nations shall pay a reasonable amount for the preparation of the remains and for funeral expenses, but no more than three times the monthly G-2, step 1 pensionable remuneration applicable at the time of death for the country where the funeral takes place, or, where there is no pensionable remuneration scale for the country where the funeral takes place, the pensionable remuneration scale for Headquarters in New York.

Expenses

(b) The United Nations shall pay medical expenses incurred prior to the date and time of a death which is found by the Medical Services Division to be: (i) directly related to a service-incurred injury or illness; (ii) reasonably medically necessary for the treatment or services provided; and (iii) at a reasonable cost for the treatment or services provided.

Travel and repatriation costs

(c) Expenses for the travel of an eligible family member to attend the funeral or for an eligible family member or other designated individual to accompany the remains of a deceased staff member as well as the costs for the repatriation of the remains shall be borne under conditions established by the Secretary-General.

Article 3.4
Survivor dependants

Maximum compensation

(a) In the event of a service-incurred death of a staff member, the United Nations shall pay the compensation provided below to the staff member's spouse or other eligible dependant(s), provided that the total annual compensation payable shall not exceed 75 per cent of the last pensionable remuneration of the deceased staff member.

Spouse

(b) A spouse shall receive annual compensation payments, payable at periodic intervals, equal to 50 per cent of the deceased staff member's last pensionable remuneration. In the event of multiple spouses, such compensation shall be divided equally among the spouses. Upon the death of a spouse, his or her share shall be divided among any remaining spouses.

Dependent child

(c) (i) Each dependent child shall receive annual compensation, payable at periodic intervals in accordance with article 3.5 below, equal to 12.5 per cent of the deceased staff member's last pensionable remuneration. If there are two or more dependent children, the compensation payable shall not exceed the maximum set out in article 3.4 (a) and shall be divided equally among such dependent children.

(ii) If there is no surviving spouse, then in lieu of the compensation provided under article 3.4 (c) (i), a dependent child shall receive annual compensation, payable at periodic intervals and in accordance with article 3.5, equivalent to the amount provided under article 3.4 (b) for one dependent child in addition to an annual compensation, payable at periodic intervals and in accordance with article 3.5, equal to the amount provided under article 3.4 (c) (i) for all additional dependent children. Such compensation shall be divided equally among such dependent children.

Secondary dependants

(d) If there is neither a spouse nor a dependent child and there is a secondary dependant, the following compensation shall be paid:

(i) To a dependent parent, annual compensation, payable at periodic intervals, equivalent to 50 per cent of the staff member's last pensionable remuneration;

(ii) To a dependent sibling, annual compensation, payable at periodic intervals and in accordance with article 3.5 below, equal to 12.5 per cent of the staff member's last pensionable remuneration.

Article 3.5
Payments to minors

Payment of any compensation under the present rules to a minor shall be made to the minor's parent or legal guardian. All such compensation must be used in its entirety for the sole benefit of the minor.

Article 3.6
Permanent disfigurement or loss of function

(a) In the case of a service incurred injury or illness resulting in permanent disfigurement or loss of function, a lump sum shall be paid to the staff member in the amount obtained by multiplying three times (ii) the staff member's pensionable remuneration at the time of the incident by (iii) the percentage of the degree of loss of function attributable to the service-incurred injury or illness pursuant to guidelines approved by the Medical Services Division for such a determination.

(b) Regardless of duty station, the staff member's pensionable remuneration utilized in the immediately preceding calculation may not exceed the pensionable remuneration of a P-4, step VI, and may not be less than the pensionable remuneration of a G-2, step I at Headquarters in New York applicable at the time of the incident.

(i) In the event that the staff member's pensionable remuneration exceeds the pensionable remuneration of a P-4, step VI, the pensionable remuneration utilized in the immediately preceding calculation shall be that of a P-4, step VI.

(ii) In the event that the staff member's pensionable remuneration is less than the pensionable remuneration of a G-2, step I at Headquarters in New York, the pensionable remuneration utilized in the immediately preceding calculation shall be that of a G-2, step I at Headquarters in New York.

Article 3.7
Relation to benefits under the United Nations Joint Staff Pension Fund

Compensation awarded pursuant to the provisions set out below is intended to supplement the benefits under the Regulations of the United Nations Joint Staff Pension Fund in accordance with the following provisions:

(a) Any compensation otherwise payable under articles 3.2 or 3.4 above shall be reduced by the amount of the claimant's disability benefit or a survivor's benefit under the Regulations of the United Nations Joint Staff Pension Fund. Deductions made under the present rules shall in no case have the effect of reducing the compensation otherwise payable to less than 10 per cent thereof, provided in all cases that the total annual amount payable both under the present rules and under the Regulations of the Fund shall in no event exceed 75 per cent of the staff member's last pensionable remuneration.

(b) The sum of (i) benefits under the Fund and (ii) compensation payable under articles 3.2 and 3.4 above, after being adjusted under the present rules, shall in no event exceed 75 per cent of the staff member's last pensionable remuneration.

(c) When benefits under the Fund are adjusted for variations in cost of living, compensation payable under articles 3.2 and 3.4 above shall be correspondingly adjusted.

Article 3.8
Relation to non-United Nations compensation

(a) In determining the amount of compensation payable under the present rules, the amount of any compensation or benefits under governmental, institutional, industrial or other workers' compensation schemes, but not personal insurance, for which claimants qualify shall be deducted from any amounts payable hereunder.

(b) The claimant shall not be entitled to compensation or receive reimbursement under the present rules for medical expenses related to a service-incurred death, injury or illness if such expenses (i) have already been compensated or are compensable under such governmental, institutional, industrial or other workers' compensation schemes; or (ii) have been reimbursed by health or medical insurance.

(c) The claimant shall inform the Advisory Board on Compensation Claims without delay of any compensation under governmental, institutional, industrial or other workers' compensation schemes or insurance for which the claimant may be eligible in connection with the death, injury or illness underlying a claim.

Article 3.9
Relation to other benefits under the Staff Rules

Special leave

(a) Once a staff member's sick leave entitlement has been exhausted pursuant to article 3.1 (b), and if such staff member has not separated from the United Nations, the staff member may be placed on special leave pursuant to staff rule 5.3.

Sick leave credit

(b) Sick leave credit, which is a grant of some or all of the sick leave entitlement which has been used for a service-incurred injury or illness, may be granted in the following cases:

(i) To maintain the full pay status of a staff member when sick leave is approved by the Medical Services Division for an injury or illness which is not service-incurred and when the claimant has insufficient sick leave for such non-service-incurred injury or illness due to a prior use of sick leave for a separate injury or illness, which was recognized under the present rules as service-incurred. Such a grant is limited to the maximum extent of the prior sick leave used for the separate service-incurred injury or illness. No credit will be granted for any sick leave already revived under the time frames of staff rule 6.2 (b).

(ii) To maintain the full pay status of a staff member being considered for a disability benefit pursuant to article 33 (a) of the Regulations of the United Nations Joint Staff Pension Fund, who has exhausted his or her sick leave entitlement. A determination as to whether a claimant should be considered for such a benefit shall be made in consultation with the Medical Services Division pursuant to the established procedures of the United Nations and the Regulations of the United Nations Joint Staff Pension Fund. Such sick leave credit may be granted solely to maintain full pay status until the date of

termination of the staff member's appointment or other separation from service pursuant to article 33 (a) of the Regulations of the United Nations Joint Staff Pension Fund, unless other arrangements apply during that period under conditions established by the Secretary-General.

Home travel

(c) A staff member who is unable to work for a period of at least six months due to a service-incurred injury or illness, and for whom the Medical Services Division has so certified, may request consideration for a special travel allowance for travel of the staff member and eligible dependents to the place of entitlement, pursuant to chapter VII of the Staff Rules, and for their return travel when the staff member returns to duty. If such travel is commenced or terminated within 12 months of the staff member's eligibility for home leave entitlement pursuant to staff rule 5.2 and chapter VII of the Staff Rules, such special travel allowance shall be deemed to be in lieu of the staff member's home leave entitlement. If the staff member does not return to duty, such special travel allowance shall be deemed to be in lieu of travel on separation pursuant to chapter VII of the Staff Rules.

Section IV.
Recoveries

Article 4.1
Claims against third parties

Notice

(a) All persons who submit a request for compensation for a service-incurred death, injury or illness under the present rules must notify the Secretary-General in writing at the earliest possible time of any claims, demands or rights that they have pursued, that they are pursuing or that they intend in the future to pursue against any third party or parties in connection with such service-incurred death, injury or illness.

Assignment of rights

(b) If, in the opinion of the Secretary-General, a claimant has a claim, demand, or right against a third party or parties, including a third party insurance carrier, for damages or other payment(s) in connection with a service-incurred death, injury or illness, the Secretary-General may, as a condition for granting any compensation to the claimant, require the claimant to assign such claim, demand or right to the United Nations so that the United Nations may pursue or enforce the claim, demand or right in the place of the claimant.

Assistance in pursuing or enforcing claims, demands or rights

(c) Where the United Nations has decided to pursue a claim, demand or right against a third party or parties pursuant to subparagraph (b) above, the claimant shall provide to the United Nations all assistance and cooperation that is necessary for pursuing or enforcing the claim, demand or right, including participating in any suit or proceedings.

Settlement

(d) The United Nations is entitled to settle any claim, demand or right against a third party or parties pursuant to subparagraph (b) above on such terms and conditions as it determines to be reasonable. A claimant, who has assigned a claim, demand or right under subparagraph (b), shall provide the United Nations all assistance as may be required to reach a settlement, including, but not limited to, participating in any settlement negotiations and executing all settlement-related documents. The claimant shall not, under any circumstances, settle any claim, demand or action with any third party or parties without the express written consent of the United Nations.

Proceeds

(e) Where compensation or proceeds have been received from a third party or parties as a result of a suit, proceedings or a settlement reached pursuant to subparagraphs (b)-(d) above, such compensation or proceeds shall be applied: (i) first, to pay in full the costs of the suit, proceedings or settlement, including reasonable attorney fees; (ii) second, to reimburse the United Nations for any compensation provided to the claimant pursuant to these rules; and (iii) third, to pay the remaining amounts to the claimant.

Future claims

(f) Any amount of compensation that a claimant may be entitled to receive in the future pursuant to the present rules shall be first used to offset any monies received by the claimant under subparagraph (e) (iii) above.

Article 4.2
Recovery of overpayments

(a) If the United Nations has paid a claimant in excess of any compensation payable under the present rules, the United Nations will notify the claimant of the amount of overpayment and request reimbursement.

(b) If immediate reimbursement in full is not feasible, any future periodic payments of compensation payable to the claimant under the present rules shall be reduced by 20 per cent until the overpayment has been reimbursed in full. If immediate reimbursement in full of any lump-sum payment made under the present rules is not feasible, the Secretary-General will seek recovery by means including, but not limited to, the reduction of any future lump sum payments of compensation payable to the claimant under the present rules by the entire amount of the overpayment.

Section V.
Reconsideration, review and appeal

Article 5.1
Reconsideration of medical determinations

Claimants wishing to contest a decision taken on a claim under the present rules, when that decision is based upon a medical determination by the Medical Services Division or the United Nations Medical Director, shall submit a request for

reconsideration of the medical determination under conditions, and by a technical body, established by the Secretary-General.

Article 5.2
Review and appeal of administrative decisions

Claimants wishing to contest a decision taken on a claim under the present rules, to the extent that the decision was based on considerations other than a medical determination, shall submit to the Secretary-General a written request for management evaluation in accordance with staff rule 11.2.

Article 5.3
Reopening of claims

Upon a written request by a claimant, or at the initiative of the Secretary-General, a claim made under the present rules may be reopened when one or more of the following criteria are met:

(a) The discovery of new material evidence, if such new material evidence may materially affect (i) a determination as to whether a death, injury or illness was service-incurred; or (ii) a relevant medical determination;

(b) A worsening or improvement in the condition of the staff member, where such worsening or improvement is directly related to the service-incurred injury or illness, and which may entitle the staff member to additional compensation, or warrant the reduction or elimination of compensation;

(c) A material mistake was made by the United Nations in the processing of a claim that impacted its disposition.

When a claim is reopened subject to the provisions above, any such claim shall be considered in accordance with the present rules. The Secretary-General and the claimant shall be bound by determinations previously made, unless new material evidence or material mistake undermines or otherwise calls into question in substantial part those determinations.

Section VI.
Transitional measures

Article 6.1
Transitional measures

(a) For claims filed for incidents occurring after the entry into force of the present revised rules, such revised rules will be applied.

(b) For claims filed for incidents that occurred prior to the entry into force of the present revised rules, the previously applicable rules will be applied, except that annual compensation for widows or widowers under the former article 10.2 will continue to be payable provided that the widow or widower has not remarried prior to the entry into force of the present revised rules.